

DRAFT
HAMPTON PLANNING BOARD – MINUTES
April 5, 2006 – 7:00 PM

PRESENT: Tracy Emerick, Chairman
Fran McMahon, Clerk
James Workman, Selectman
Tom Gillick
Keith Lessard
Bob Viviano
Donna Mercer, Alternate

ABSENT: Tom Higgins
James Steffen, Town Planner

Chairman Emerick turned the gavel to Mr. Workman at 7:00 PM. Mr. Workman chaired for the election of officers.

I. ELECTION OF CHAIR AND VICE-CHAIR

MOVED by Mr. Gillick to elect Tracy Emerick as Chair and Bob Viviano as Vice-Chair. He asked that Fran McMahon continue as clerk.

SECOND by Ms. Mercer

Chairman Emerick then took the gavel and called the meeting to order. He began by introducing the Board members. Mr. Viviano led the Pledge of Allegiance to the flag.

II. WITHDRAWALS AND POSTPONEMENTS

6-24) John Simmons
Site Plan Review at
886 Lafayette Road
Map 71 Lot 3
Waivers from Site Plan Regulations Section V.E. Detailed Plan – Storm
Water Drainage control plan & Section VII.B.1 Parking Lot Design
Owner of Record: Simmons Trust

Chairman Emerick announced that this applicant has requested a continuation of his application.

MOVED by Mr. Viviano to continue the application to the May 3rd meeting of the Planning Board.

SECOND by Mr. Lessard

VOTE: 7-0-0

MOTION PASSED

- 6-16) Rademo Realty Trust
Special Permit to Impact Wetlands Conservation District at
7A Merrill Industrial Drive
Map 142 Lot 4-1
Owner of Record: Rademo Realty Trust
- 6-17) Rademo Realty Trust
Site Plan Review at
7A Merrill Industrial Drive
Map 142 Lot 4-1
Owner of Record: Rademo Realty Trust
Jurisdiction accepted: February 1, 2006

Chairman Emerick stated that there are open issues with this application (Fire Department and Engineering), and the Planner has recommended continuation. He asked the applicant if he would like to continue the application or have it voted on tonight. Peter Saari, on behalf of the applicant, indicated he opted for continuation.

MOVED by Mr. Viviano to continue the application to the April 19th meeting of the Planning Board.

SECOND by Mr. Workman

VOTE: 7-0-0

MOTION PASSED

III. ATTENDING TO BE HEARD

- 6-35) Hess Corporation
Change of Use from service station with prepared food and drink sales to
Service station with prepared and fresh food and drink sales with seating at
639 Lafayette Road
Map 126 Lot 25
Owner of Record: Lucier Holdings, LLC

Peter Saari, Casassa & Ryan, and Mr. Russell, Real Estate Manager, presented this application. Mr. Saari went over the application. He indicated that the applicant wanted to expand the food area to include Blimpie's and Godfather's food areas. There will be 3 or 4 tables for sit-down eating for 12 people. Mr. Saari indicated 19 parking spaces currently exist. He stated this is adequate parking for the use.

BOARD

Mr. Lessard asked for clarification of the seating on the plan. He asked if there would be food delivery. No there will not.

BOARD

MOVED by Mr. Gillick to approve the change of use at 693 Lafayette Road, Map 126, Lot 25.

SECOND by Mr. Lessard

VOTE: 7-0-0

MOTION PASSED

IV. NEW PUBLIC HEARINGS – PLANNING BOARD APPLICATIONS

- 6-32) Village Square at Hampton LLC
Request for Waiver from School Impact Fee at
428 Lafayette Road
Map 160 Lot 17
Owner of Record: Village Square at Hampton LLC

Mr. Lessard recused himself from this application.

Tom Nigrelli, Manager of Village Square LLC, presented this request. He indicated that the variance he was granted was for one-bedroom apartment condominiums. Individual adults will own these, primarily. He does not anticipate that any children will be living in these condominiums.

BOARD

Mr. Gillick asked for confirmation that these were dwelling units with full kitchens. They are.

PUBLIC

No comments

BOARD

MOVED by Mr. Gillick to refer this request to counsel before a vote and to continue the request to the April 19th meeting.

SECOND by Mr. Viviano

VOTE: 5-1-0

MOTION PASSED

- 5-36) Dovaro 12 Atlantic, LLC
Condominium Conversion at
12 Atlantic Avenue
Map 296 Lot 40
Waivers from Subdivision Regulations Section V.E (Detailed Plan) & VII.C
(Storm Drainage)

Owner of Record: Dovaro 12 Atlantic, LLC

Peter Saari, Casassa & Ryan, Robert Palmisano, Manager of Dovaro LLC, and Ernest Cote, Surveyor, presented this application. Mr. Saari stated that this is a condominium conversion request for two buildings on one lot. The issue is the fact that the parking is stacked. He stated that all of the property is legal, nonconforming. He then described the difference between an LLC and a condominium.

Previously the Board was concerned about the parking and also about intensification of use. Mr. Saari indicated that the LLC is doing work to be able to secure year-round Certificates of Occupancy, where the property, until now, has had seasonal-only Certificates of Occupancy.

He stated the stacked parking is an ongoing situation.

He indicated that the intensification of use is a Building Department, not a Planning Board, issue and has nothing to do with the form of ownership.

BOARD

Mr. Gillick asked if this went to court and was remanded to the Board. It was. He asked if there were instructions from the court. There were not.

Mr. Lessard stated that the voters of Hampton voted a new Zoning Ordinance that requires one parking space per unit for condominiums. He wonders how that affects this project. He indicated that there are only two to three spaces on the property that meet the definition of a parking space in the Zoning Ordinance.

Mr. Saari said the Ordinance has changed, but since this is a remand, the application predates the new Ordinance.

Mr. Gillick stated that the Board needs more time to digest the information in the April 3rd memo from Town Counsel.

The applicant asked if a letter from an abutter could be read into the record. Chairman Emerick suggested that this be done at the next meeting when the application is discussed.

PUBLIC

No comments

BOARD

MOVED by Mr. Gillick to continue the application to the April 19th meeting.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

- 6-34) Seven-O-Nine Ocean Boulevard Realty Trust
Lot Line Adjustment at
423 and 427 Winnacunnet Road
Map 208 Lot 46 and Map 221 Lot 5
Waiver request from Subdivision Regulations, Section V.E (Detailed Plan)
Owners of Record: Seven-O-Nine Ocean Blvd Realty Trust and Sean F.
Kelley and Cara Lynne Grasso

Peter Saari, Casassa and Ryan, and Joe Coronati, Jones & Beach Engineers, presented this application. Mr. Coronati said that these were two lots involved in the Nathaniel Court subdivision. This would be a transfer of about 8,000 square feet. The reason is that one owner would like a larger back yard before the other lot is sold. Sean Kelly owns Map 221 Lot 5 and Seven-O-Nine is the owner of Map 208 Lot 46.

BOARD

No questions

PUBLIC

No comment

BOARD

MOVED by Mr. Gillick to grant the waiver from Subdivision Regulations Section V.E.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

MOVED by Mr. Gillick to grant the lot line adjustment at 423 and 427 Winnacunnet Road, Map 208 Lot 46 and Map 221 Lot 5, Plan # 03084, subject to the following conditions:

- Prior to final approval, the applicant shall submit seven (7) paper copies of the final plans, recordable Mylar, and applicable recording fees.
- Receipt of a Certificate of Monumentation.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

- 6-23) Marjorie Cypres
Special Permit to Impact Wetlands Conservation District at
471 Exeter Road
Map 36 Lot 3
Owner of Record: Marjorie Cypres

Sean Moriarty and Joe Nichols, NH Soil Consultants, presented this application. Ms. Cypres was also present.

Mr. Moriarty reviewed the changes made in the plans as a result of meetings with the Conservation Commission. He also said the Zoning Board granted a variance from Section 2.3.7.C.1 of the Zoning Ordinance because the lot does not have 30,000 square feet outside of the Wetlands Conservation District.

BOARD

Mr. Gillick commented that the variance was not noted on the plan.

Mr. Viviano stated that at the Conservation Commission meeting, the applicant agreed to conduct a drainage study because of flooding concerns of an abutter.

Mr. Moriarty indicated that the wetland crossing wouldn't affect the abutters. The abutter who expressed concern is upslope of the project.

Mr. Nichols said that the ZBA didn't comment on the drainage issue. The Conservation Commission wanted a drainage study to ensure that the culvert used would be sufficient to handle drainage.

Mr. McMahon said he would be more comfortable if the drainage study was done.

Mr. Gillick asked when the drainage study could be completed. He asked if that study would provide recommendations. It will provide an opinion as to whether the culvert is suitable.

Mr. Gillick asked if there was a dry hydrant. There is.

PUBLIC

Bob Nudd, 531 Exeter Road, stated this is a lot of record. There are three other lots in this field which have homes built on them. All of these homes impact the wetland in the same manner, and he sees no reason to hold this lot to a higher standard than the others.

BOARD

MOVED by Mr. Gillick to continue the application to April 19th for completion of the drainage study.

SECOND by Mr. Viviano

Mr. Lessard clarified that the ZBA probably didn't comment on drainage because it was not in their purview. He asked for clarification of the drainage analysis.

Mr. Moriarty presented pictures to the Board of the water flow on the property.

Chairman Emerick indicated if the study were to be done, the Board would like to include it in its consideration.

VOTE: 7-0-0

MOTION PASSED

- 6-36) Two Thirty Four Lafayette Road Realty Trust
Amended Site Plan Review to construct phase II of an office building at
234 Lafayette Road
Map 189 Lot 11
Owner of Record: Two Thirty Four Lafayette Road Realty Trust
- 6-37) Two Thirty Four Lafayette Road Realty Trust
Special Permit to Impact Wetlands Conservation District at
234 Lafayette Road
Map 189 Lot 11
Owner of Record: Two Thirty Four Lafayette Road Realty Trust

Bruce Scamman, Emanuel Engineering, presented this application. Paul LaBonte, an officer of the LLC, was also present.

Mr. Scamman reviewed the history of the site plan. He indicated that the objective was to keep things the same as approved in 1988, to the extent possible, except for the change in the footprint of the addition. He then described the current plans and compared the changes to the previously approved site plan. He indicated that Emanuel has recommended a 24' driveway, rather than the current 16' driveway. The Fire Department requires a minimum 18' driveway. They also reconfigured the driveway. Landscaping has been added to buffer air-conditioning equipment.

He then stated that the wetland on the lot was a previous manmade swale. He covered the plans to change the grade of the parking lot and add curbing so that water flows to the rear swale. He said lighting would remain as is. There will be an additional set of lights on the new parking lot. He also reviewed the signage and landscaping. The new landscaping area will match the existing landscaping. They have met with the Department of Public Works and Aquarion for the utilities. A new fire line and a new domestic water line are to be added. The lot will be 62% pervious upon completion.

BOARD

Mr. Lessard asked for documentation of the snow storage area. He asked if there would be screening around the dumpster. Mr. Scamman said it is currently wooded around the dumpster so that it is not visible.

Mr. Lessard then asked how they planned to deal with the foot crossing currently being used. Mr. Scamman said they had no plans to accommodate that.

Mr. Gillick stated that we should deal with this as a new site plan rather than an amended site plan.

PUBLIC

No comments

BOARD

Mr. LaBonte stated that the Planning Board had already approved the site plan and that they were merely merging the two footprints. He stated Mr. Steffen had advised him to submit this as an amended site plan, and he asked why they needed to go through the whole process.

Chairman Emerick said that the Town Planner's memo recommended that the new utilities be sent out for department review. He also raised the fact that there is a Town sidewalk on the property without an easement. This is not a Planning Board issue, but it is a Town issue.

MOVED by Mr. Gillick to accept jurisdiction of the application, send it out for department review, and continue the application to a date certain of May 3rd.

SECOND by Mr. Lessard

VOTE: 7-0-0

MOTION PASSED

V. CONTINUED PUBLIC HEARINGS – PLANNING BOARD APPLICATIONS

- 5-52) Seaview at Hampton, LLC
Special Permit to Impact Wetlands Conservation District (transformer pad only) at
24 Harbor Road
Map 295 Lot 64
Owner of Record: Seaview at Hampton LLC

Joe Coronati, Jones & Beach and Peter Saari, Casassa and Ryan, Scott Wade and Sam Horton, Unitil, and Ernie Thibeault and Scott Kilgore, principals presented this application. Mr. Coronati reviewed the current status of this application.

Chairman Emerick said the issue was that they went from two small transformer boxes to a large one, and it got moved closer to an abutter's property line. There were questions regarding the noise, emissions, etc of the transformer that the Board could not answer. Mr. Lessard said the Board also wanted to know why it was moved to a different location than the one depicted on the plan.

Scott Wade, Unitil Manager of Electric Operations, stated that when they receive plans from an owner/developer, the plans contain a proposed location for the service. The

majority of the designs are changed by the utility company. Unitil designs the electrical system. The engineers' design plans just show where the utilities might be located. One of the transformers was located to service the yacht club. It was inaccessible where it was originally placed on the plans by the engineers. The second transformer shown next to Unit #1 couldn't fit in that location. He said they met on-site with the builders and determined that the electric load for the yacht club didn't need its own transformer. So then they looked at how they could service the yacht club, the condominiums and the fireboat pier. They had to make sure that it would fit; that it would be accessible; that it wouldn't be in the way of construction; and that it would be close to the buildings it would be servicing. Also, they like to have conduit runs as straight as possible, so that can't be tucked in corners. They learned later that there are gas lines running to the yacht club. Unitil decided, after reviewing all these issues; that the best location for the transformer was where it ended up. He stated that the design required for this project was more complex than for a normal residential subdivision. He does not remember ever having to record decibel levels for the noise emitted by a transformer. He said there is no conclusive scientific evidence that EMF (electro magnetic fields) pose any health risks to people. The levels are no greater than typical household appliances. Microwave ovens and electric blankets have higher EMF levels than transformers. He indicated that there is a hum to the transformer and nothing can be done about that.

Mr. Viviano asked the maximum distance transformers could be from buildings to service them. Mr. Horton said that typically it would be 100 feet. There was discussion as to other locations that could be used.

Mr. Coronati commented that originally the transformer was designed to be in the wetland buffer. Also, he stated that there would be a fence and landscaping around the transformer by summer.

Mr. Gillick asked Mr. Horton if he had seen the abutter's April 2nd letter.

PUBLIC

Jane Gallagher, 31 Harbor Road, presented pictures of the transformer four feet from her property line. She also presented a picture during a moon tide. She then stated that she believes the location of the transformer will negatively impact the value of her property.

John Gebhart, 4 Bailey Avenue, stated he believed that a location under a telephone pole would have been an ideal location for the transformer. He believes that there are other locations where the transformer could go and still meet Unitil's criteria.

Linda Gebhart, 4 Bailey Avenue, stated that the transformer pad was not in danger of being flooded because the elevation is 9 feet. She stated than on page C4 of the plans the elevation is level. It appears that the elevation has been raised where the pad is. This makes Ms. Gallagher's property a swale area and that is a negative impact. She then showed a picture of Harbor Road during the blizzard of 1978. She felt that the likelihood of the transformer being flooded by salt water is high. She summarized that the area is

prone to flooding in any storm event. She questioned whether the transformer should have needed a variance. The current plan is not what was presented to the ZBA to be granted the variances. She also raised the issue of a swale that will be crossed for access to the properties at 5 and 5A Ocean Boulevard. She stated that the swale is crucial to the property staying dry. It has been compromised with fill. She indicated that she has been working through this issue with the Building Inspector. She then raised the issue of parking. She has heard that they are now trying to sell Yacht Club memberships to the public. There is only one public parking space on the property.

Mr. Lessard asked Mr. Coronati about the elevation at the transformer. Mr. Coronati described the one-foot increase in elevation. Mr. Horton indicated that all underground cables are protected. If there were to be a water issue, the power would be isolated.

Chairman Emerick indicated that the swale issue is a Building Inspector issue. The duplexes being constructed on Ocean Boulevard did not come before the Planning Board. Mr. Lessard asked if the drainage structure was on the drainage plan for Seaview when it was approved. He indicated that this was a change to the approved plan, since drainage from the Ocean Boulevard properties is being incorporated on Seaview property.

It was agreed that the Chairman would ask the Building Inspector what the impact of the changes in the drainage would be.

Mr. Gillick asked if the transformer has to be next door to Ms. Gallagher's house.

Mr. Thibeault said that it was his understanding that it was the only location that would meet Unitil's requirements. He reviewed the plans for fencing and landscaping. He may be able to incorporate some soundproofing into those plans.

Mr. Horton said he was involved in the meeting with the Conservation Commission. At that time, the Conservation Commission found that the overall impact of transformers is less than what was originally approved. Also, there has been discussion with the New Hampshire Public Utilities Commission regarding the obligations of Unitil.

BOARD

Mr. McMahon asked if all three locations needed to be served from the single box. Mr. Horton said the requirements for power from the pier and the yacht club is for 3-phase power that requires a larger box. He believes that dividing it would mean more pads in the same area. He indicated the pad across the street is single-phase.

Mr. Workman asked why the transformer couldn't be moved across the access way. Mr. Horton said that it would interfere with the fire sprinkler hookup on the side of the yacht club building. Equipment requirements were discussed at length.

Mr. Lessard commented that Unitil should be involved in other large projects brought before the Board. Mr. Wade agreed.

Mr. Horton said they are obligated to continue to provide service to the customers being serviced now.

Mr. Thibeault said they would provide a detailed plan for the fence, soundboard and landscaping of the pad and take a decibel reading and present that information to the Board.

Mr. Wade said that the pad could be moved across the access way but he understands there is a gas line there and there may be Fire Department access issues.

MOVED by Mr. Gillick to continue the application to the April 19th meeting to determine if it is feasible to move the pad across the access way.

SECOND by Ms. Mercer

VOTE: 7-0-0

MOTION PASSED

VI. CONSIDERATION OF MINUTES of March 15, 2006

MOVED by Mr. Lessard to accept the minutes as written.

SECOND by Mr. Viviano

VOTE: 6-1-0

MOTION PASSED

VII. CORRESPONDENCE

None.

VIII. OTHER BUSINESS

- Change of Use Review – ADA Handicap Accessibility

Chairman stated that, in the absence of the Town Planner, this issue is to be postponed to April 19th meeting.

MOVED by Mr. Workman to adjourn

SECOND by Mr. Gillick

VOTE: 7-0-0

MOTION PASSED

Meeting adjourned at 9:43 PM.

Respectfully Submitted,
Barbara Renaud
Planning Board Secretary